

The Corporation of the Town of Kingsville

By-law 40-2026

Being a By-law to Prohibit and Regulate Site Alterations in the Town of Kingsville

Whereas Sections 8 and 9 of the *Municipal Act, 2001* S.O. 2001 c. 25, as amended, (the "Act") provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising the authority conferred upon a municipality to govern its affairs as it considers appropriate;

And whereas Section 142 of the *Municipal Act* provides that a local municipality may prohibit or regulate the placing or dumping of fill, the removal of topsoil and the alteration of the grade of the land, and require that a permit be obtained for the placing or dumping of fill, the removal of topsoil and the alteration of the grade of land, and impose conditions to a permit, including requiring the preparation of plans acceptable to the municipality relating to the grading, filling or dumping, the removal of topsoil and the rehabilitation of the site;

And whereas it is deemed expedient to establish regulations concerning site alterations of land;

Now therefore The Council of the Corporation of the Town of Kingsville enacts as follows:

Definitions

1. In this By-law:

"Adverse Impact" means a negative consequence (loss, destruction, or modification) that can have a direct, indirect or cumulative effect whether short or long term in duration;

"Clerk" means the Clerk of the Town or their designate(s);

"Contaminated Soil" means soil that contains a contaminant in excess of the applicable standards set out in the Ministry of the Environment, Conservation and Parks' Soil, Ground Water and Sediment Standards under the *Environmental Protection Act*, or as determined in accordance with Ontario Regulation 153/04 or Ontario Regulation 406/19 (On-Site and Excess Soil Management), as amended from time to time;

"Drainage" means the movement of water to a place of disposal, whether by way of the natural characteristics of the ground surface or by an artificial method;

"Designated Official" means an employee, officer or agent of the Town who is appointed and/or retained to administer this By-law or their designate(s);

"Dump" or "Dumping" means the deposit or placement of Fill Material from one location to another and includes from one location at a site to another location at a site on the same Land;

"Existing Grade" means the elevation of the existing ground surface of the Lands prior to the alteration of the Land;

"Fill" or "Filling" means the alteration of the Existing Grade of the Land through the addition of Fill Material;

"Fill Material" means any type of material capable of being removed from or deposited on Land, and may include soil, Topsoil, stone, sod, turf, concrete, asphalt, either singly or in combination, but does not include Contaminated Soil as defined under the *Environmental Protection Act*;

"Grade" or **"Grading"** means the elevation of the ground surface of Land;

"Land" means any real property within the geographical boundaries of the Town of Kingsville;

"Officer" means any employee, officer or agent of the Town who is appointed and/or retained to enforce the By-laws of the Town, including the Chief Building Official, Designated Official, Supervisor of By-law Enforcement, Building Inspectors, Property Standards Officers, and By-law Enforcement Officers;

"Official Plan" means the Official Plan of the Town of Kingsville, as amended, approved pursuant to the *Planning Act, R.S.O 1991, c. P.13*.

"Owner" means the Person that is the registered owner of the Land pursuant to the laws of the Province of Ontario, beneficial owner, lessee, tenant, or person in care and control of the Land;

"Person" means an individual, a corporation, a partnership, and an association as the context requires, and includes an applicant for a Permit under this By-law;

"Permit" means a permit issued pursuant to the provisions of this By-law;

"Qualified Professional" means Professional Engineer licensed by the Association of Professional Engineers of Ontario, licensed Ontario Land Surveyor, or other suitable professions in the sole discretion of the Designated Official;

"Site Alteration" means placing Fill Material on Land, Dumping on Land, removing Topsoil from Land, including the removal of Topsoil for sale, exchange or other disposition, and/or altering the Grade of Land;

"Topsoil" means those horizons in a soil profile, commonly known as the "O" and the "A" horizons, containing organic material and includes deposits of partially decomposed organic matter such as peat; and

"Town" means The Corporation of the Town of Kingsville.

Interpretation

2. This By-law may be referred to as the "Site Alteration By-law".
3. If there is a conflict between the provisions of this By-law and any other By-law of the Town in force or a provincial or federal statute or regulation, the more restrictive provisions shall apply.
4. Headings are inserted for ease of reference only, form no part of this By-law, and shall not affect in any way the meaning or interpretation of the provisions of this By-law.
5. References to any statute or By-law includes any amendment to that statute or By-law and any successor thereto.
6. Nothing in this By-law shall serve to relieve any Person from the obligation to comply with all other applicable law.

General Prohibitions

7. No Person shall engage in Site Alteration, or cause or permit any Site Alteration without a Permit.

8. No Person shall engage in Site Alteration, or cause or permit any Site Alteration that creates an Adverse Impact on any Land.
9. No Person shall place or Dump Fill or cause Fill to be placed that contains any Contaminated Soil.

Permit Exemptions

10. The Town, the Corporation of the County of Essex, and the Essex Region Conservation Authority ("ERCA") are exempt from the permitting requirements under this By-law.
11. Soil that is placed on Lands for the purpose of lawn dressing, landscaping, adding to flower beds or vegetable gardens, is exempt from this By-law, provided that all of the following conditions are met:
 - I. the ground elevation of the Lands is not increased by more than ten (10) centimetres from the Existing Grade;
 - II. the Filling or Dumping does not cause an Adverse Impact on any Land; and,
 - III. the Fill Material does not contain any Contaminated Soil.
12. A Designated Official may issue an exemption for a Permit for actions subject to this By-law that are taken in accordance with a building permit issued by the Chief Building Official for the erection of a building or structure and, in the opinion of the Designated Official, the lot grading accompanying the building permit application provides sufficient information to determine that the placing or Dumping on Fill conforms with the provisions of this By-law.

Permit Application

13. A completed application for Site Alteration shall be submitted to the Designated Official in the form prescribed by the Town, and shall be accompanied by the following:
 - a. payment of the fee prescribed in the Town's Fees and Charges By-law in effect at the time;
 - b. proposed final Grades to be used upon completion of the Filling operation;
 - c. a description of the proposed Fill, including a list of the source, geotechnical and environmental analysis reports as to content and quality, prepared by qualified experts in that regard;
 - d. a plan, which shall be prepared by a Qualified Professional, if the Designated Official so requires, showing the design details required by the Designated Official to ensure compliance with this By-law, which may include the Grades of any abutting properties; and,
 - e. security in a form and amount to be determined by the Designated Official to secure performance of the work for which the Permit is being applied, which the Town may draw upon to recover the cost of the Town performing any required work that the Owner has failed to perform and any fee that applies as prescribed in the Town's Fees and Charges By-law in effect at the time.

Issuance of Permit

14. Subject to Section 16 of this By-law, the Designated Official shall issue a Permit upon being satisfied that:
 - a. receipt of payment for any applicable fee;

- b. receipt of payment for any Qualified Professional retained by the Town to review any required documents, if any;
 - c. receipt of any security required by the Designated Official to secure performance of the work;
 - d. a Grading plan satisfactory to the Designated Official has been received;
 - e. there is no Adverse Impact;
 - f. the Fill does not contain any Contaminated Soil;
 - g. any Topsoil being removed is being used to restore the Land for which the Permit is being issued unless it can be shown to the satisfaction of the Designated Official that the Topsoil is not needed to restore the Land in which case the Topsoil may be removed from the Land provided a Permit has been issued for the Land to which the Topsoil is being applied; and,
 - h. satisfactory dust control, traffic control, noise control, hours of operation and vehicle travel routes are established for all vehicles and equipment involved in the Dumping, Filling or Grading operation, so as not to contravene any Town By-laws.
15. It shall be a condition of every Permit that:
- a. every reasonable step be taken to prevent any Adverse Impact related to dust and noise emanating from the activities undertaken pursuant to that Permit; and,
 - b. all vehicles and equipment involved in the Dumping, Filling, removing or Grading or alteration shall follow the vehicle travel route (haul route) established by the Designated Official when travelling to or from the property for which the Permit was issued.
 - c. the Permit holder shall obtain and maintain all necessary approvals, permits, and authorizations from ERCA, where applicable.
16. The Designated Official may refuse to issue a Permit if the application is incomplete, inaccurate, or fails to comply with any of the provisions of this By-law or any other applicable legislation or regulation.

Expiry and Renewal

17. A Permit shall expire on the earlier of the date indicated on the Permit or twelve (12) months from the date of its issue. The Designated Official shall have the discretion to issue Permits for shorter terms where potential impacts are greater.
18. A Permit that has expired may be renewed within sixty (60) days of its date of expiry upon written application to the Designated Official, accompanied by the applicable fee as prescribed in the Town's Fees and Charges By-law in effect at the time, as well as an updated deposit, if required, and provided that the proposed work has not been revised.

Revocation

19. The Designated Official, in their sole discretion, shall have the authority to revoke a Permit under any of the following circumstances:
- a. if it was obtained on mistaken, false or incorrect information;
 - b. if it was issued in error;
 - c. if the Owner or Permit holder requests in writing its revocation;

- d. if the Owner or Permit holder fails to comply with the terms and conditions of the Permit;
- e. if work authorized under the Permit has not been commenced within six (6) months of the issuance of the Permit; and/or,
- f. if an Owner or Permit holder fails to comply with any of the provisions of this By-law.

Appeal

- 20. An applicant for a Permit may appeal a decision of the Designated Official to refuse to issue a Permit, revoke a Permit, or eliminate or modify a condition of a Permit by providing written notice to the Clerk within fourteen (14) days of the Designated Official's decision.
- 21. The Clerk will schedule a public meeting of the Committee of Adjustment and Appeals to hear the appeal.
- 22. The Committee of Adjustment and Appeals has the authority to confirm, amend, or withdraw the decision of the Designated Official and such decisions of the Committee of Adjustment and Appeals shall be final and not subject to any further appeal.
- 23. A request to appeal a decision of the Designated Official does not act as a stay of the decision, including any condition or requirement imposed.

Enforcement

- 24. The provisions of this By-law may be enforced by an Officer.
- 25. In accordance with Section 436 of the *Municipal Act*, an Officer may enter onto Land, and into buildings, at any reasonable time for the purpose of carrying out an inspection to determine whether any provision of this By-law or an order made under this By-law is being complied with.
- 26. For the purpose of conducting an inspection pursuant to this By-law, an Officer may:
 - a. require the production for inspection of documents or things relevant to the inspection;
 - b. inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts;
 - c. require information from any Person concerning a matter related to the inspection; and,
 - d. alone, or in conjunction with a Person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purpose of the inspection.
- 27. If an Officer is satisfied that a contravention of this By-law has occurred, the Officer may make an order requiring a Person to discontinue the contravening activity or to do work to correct the contravention.
- 28. An order made under this By-law shall set out the following:
 - a. reasonable particulars of the contravention adequate to identify the contravention;
 - b. the location of the Land on which the contravention occurred;
 - c. the work to be completed; and,
 - d. the date(s) by which there must be compliance with the order.

29. An order under this By-law may be served personally or by registered mail to the address of any Person on file with the Town or by posting the notice on the Land in a conspicuous place.
30. Where an order made under this By-law has not been complied within the time prescribed, an Officer and/or any authorized agent acting on behalf of the Town may enter onto the property at any reasonable time and carry out the work described in the order.
31. No Person shall prevent, hinder or obstruct, or attempt to hinder or obstruct an Officer who is exercising a power or performing a duty under this By-law.

Recovery of Costs

32. Where the Town has carried out the work pursuant this By-law, the expenses incurred by the Town in completing the work, in addition to any other remedy, may be added to the tax roll for the property and collected in the same manner as municipal taxes, including any fee prescribed in the Town's Fees and Charges By-law in effect at the time.

Penalty

33. In accordance with Section 429 of the *Municipal Act*, the Town is authorized to impose fines for offences under this By-law.
34. Every Person who contravenes any of the provisions of this By-law is guilty of an offence and shall, upon conviction thereof, pay a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, c.P.33, as amended, exclusive of costs.
35. Each day or a part of a day that a contravention of this By-law continues is deemed to be a separate offence.
36. Any Person other than a corporation who contravenes any provision of this By-law or who fails to comply with an order made under this By-law or who obstructs or attempts to obstruct an Officer in carrying out his or her duties under this By-law is guilty of an offence and, on conviction, is liable to a maximum fine of \$5,000 for a first offence, and a maximum fine of \$10,000 for a subsequent offence.
37. A director or Officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation is guilty of an offence and is liable to a fine, and such other penalties, in accordance with the *Municipal Act*, as amended.
38. Any corporation which contravenes any provision of the By-law or who fails to comply with an order made under this By-law or who obstructs or attempts to obstruct an Officer in carrying out his or her duties under this By-law is guilty of an offence and on conviction is liable to a maximum fine of \$50,000 for a first offence and \$100,000 for any subsequent offence.
39. If a Person is convicted of an offence under this By-law, in addition to any other remedy or any penalty imposed, the court in which the conviction has been entered, and any other court of competent jurisdiction, may make an order:
 - a. prohibiting the continuation or repetition of the offence by the Person convicted; and,
 - b. requiring the Person convicted to correct the contravention in the manner and within the period that the court considers appropriate.

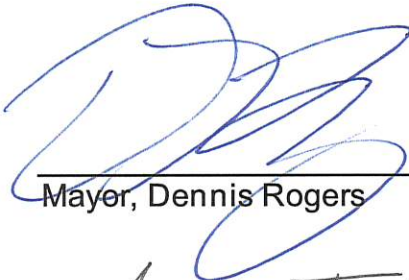
Severability

40. If any section, subsection, schedule, appendix or part, or parts of this By-law are declared by any Court of Law to be invalid, illegal or *ultra vires*, such section, subsection, schedule, appendix or part, or parts shall be deemed to be severable, and all parts hereof are declared to be separate and independent and enacted as such.

Enactment

41. **That** this By-law comes into force and takes effect on the day of the final passing thereof.
42. **That** By-law 64-2025, and any amendments thereto, are hereby repealed once this By-law takes force and effect.

Read a first, second and third time and finally passed this 17th day of June, 2026.



Mayer, Dennis Rogers



Clerk, Angela Toole